

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

Claims 2 and 3 have been withdrawn from consideration. Claims 1, 4, 15 and 16 have been amended. Claims 1, 15 and 16 are in independent form.

§102 Issues

The Examiner rejected the original Claim 1 under §102 as being anticipated by Cagney, Jr., McGinley and Publicover. Claim 1 now recites that the figure includes light and dark indicia to teach correct weight transfer and distribution during the action. None of the references discloses light and dark indicia disposed in connection with a representation of legs to teach correct weight transfer and distribution. Cagney, Jr. and McGinley disclose sequence indicia to teach a user proper foot and arm position, but neither uses light and dark indicia to teach correct weight distribution nor transfer during the action. The examiner cites columns 4 and 5 of Cagney, Jr. (stance and stride indicium), but the reference simply teaches foot placement on a planar surface surrounding a baseball plate and fails to disclose any light and dark indicia disposed in connection with a representation of legs for teaching correct weight transfer and distribution. The Examiner also cites paragraph 0019 of McGinley, but McGinley uses a written description to teach a user how to move, and does not utilize light and dark indicia on the good itself to teach correct weight transfer and distribution.

Publicover does not address body positioning while performing the action and therefore cannot teach weight transfer and distribution of a user's body. Publicover also fails to teach any correct usage of a sporting good. Publicover shows at most how a

person did use a sporting good and not how the person should use it. Accordingly, Claim 1 in its amended form is allowable over the prior art, which allowance is respectfully solicited.

Applicant withdraws Claims 2 and 3 from consideration without prejudice.

The Examiner did not reject Claim 4 and expressly stated "McGinley does not disclose expressly that the shading includes light shading to indicate even weight distribution and dark shading to indicate primary distribution." Claim 4 has been amended and now recites that the light indicia includes light shading and the dark indicia includes dark shading. Neither Publicover nor Cagney, Jr. disclose light and dark shading in order to show correct weight transfer and distribution and therefore, Claim 4 is allowable over the prior art, which allowance is respectfully solicited.

Dependent Claims 4-14 are patentable because they depend on Claim 1, which is patentable. Further, Claim 7 is patentable over Publicover because Publicover does not show the user how to throw the ball, but merely has markings for hand placement. Claim 7 recites that the demonstrated action is "one of passing, kicking, dribbling, catching, shooting, throwing, serving, digging, and spiking the ball." Publicover does not demonstrate any action to take with the ball.

The Examiner rejected independent Claims 15 & 16 under §102(e) as being anticipated by Publicover. Independent Claims 15 and 16 have been amended to include light and dark shading disposed in connection with a representation of legs to show how to transfer and distribute weight correctly. Claims 15 and 16 in their amended form are allowable over Publicover because Publicover does not disclose light and dark shading

disposed in connection with a representation of legs to show correct weight transfer and distribution. Again, Publicover does not show how a user should handle a ball, but only how the use did handle it – correctly or not.

§103 Issues

The Examiner rejected dependent Claim 3 under §103(a) as being unpatentable over McGinley in view of Publicover. Dependent Claim 3 has been withdrawn from consideration.

The Examiner also may have intended to reject Claim 4 under §103(a) as being unpatentable over McGinley in view of Publicover. Although Claim 4 has been amended, the Examiner did not make a *prima facie* case of obviousness, which requires at least two things: a showing of prior art that can be combined to provide all of the claim limitations of the invention, and a suggestion in the prior art to make the combination. M.P.E.P. §706.02(J). Neither McGinley nor Publicover show or suggest functional shading to show a user how to transfer and distribute weight correctly during the action. The Examiner expressly stated that McGinley does not disclose “that the shading includes light shading to indicate even weight distribution and dark shading to indicate primary distribution.” Publicover does not teach a user how to use the sporting good, but simply shows how he/she used the good, which might have been wrong. Publicover provides retrospective analysis of the pressure applied to the sporting good after the user performed an action on the sporting good. A user does not view the markings on the sporting good to learn how to perform an action with the item correctly.

Since any combination of McGinley and Publicover fails to provide all of the claimed limitations of Claim 4, an obviousness rejection would be inappropriate.

The Examiner rejected dependent Claim 14 under §103(a) as being unpatentable over Publicover. Since Publicover does not provide indicia to teach a user how to throw a ball, it would not be obvious to teach a user how to catch a ball. Accordingly, Claim 14 is allowable, which allowance is respectfully solicited.

For the foregoing reasons it is believed that this Amendment places the claims now appearing in this case in condition for allowance, and an early notice to such effect is respectfully solicited.

In the event that the Examiner does not agree that the claims are now in condition for allowance, the Examiner is encouraged to contact the undersigned at the number given below to discuss any changes that the Examiner believes would lead to an allowance of the claims.


Applicant does not believe that any new fees are necessitated by the entry of this amendment. However in the event that any new fees or charges are required, authorization is hereby given to charge such fees to applicant's Deposit Account No 50-0852. A duplicate copy of this sheet is enclosed.

Amdt. dated July 19, 2005

Reply to Office action of April 19, 2005

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

A handwritten signature in black ink, appearing to read "Andrew M. Grove", written over a horizontal line.

Andrew M. Grove
Registration No. 39,697
P.O. Box 4390
Troy, Michigan 48099
(248) 689-3500

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